Bill to amend the Cochin Chief Court Regulation.

Mr. M. K. Raman.—Sir, before introducing this Bill, I wish to submit that I would like to know whether the Government is proposing to oppose it. Whether the Bill should be introduced or not, I will have to consider after I know that.

On a similar occasion, when a Bill was moved by the Member for the Jenmies to amend the Chief Court Regulation, namely, to take away the provision of a Christian Judge, the Government assumed an attitude of neutrality. I would earnestly request the Government, in the present case also, to assume a neutral attitude, so that the consensus of opinion amongst the non-official Members may be taken and a solution arrived at. If the Government make up their mind to oppose me, then I don't think there will be much practical use of my pressing this Bill through. Knowing the consensus of opinion of the brother Members, I shall decide whether I should press this Bill or not.

President.—You may form an opinion. You may change the opinion of the Government by arguments advanced during the discussion.

Mr. M. K. Raman.—I want to know whether the Government proposes to oppose me at this stage.

Mr. A. B. Salem.—If there is nobody to second it, why should they oppose?

President.—You may go on. If the Government opposes, you may withdraw. That is the point. Whatever you have to say, you may say.

Mr. M. K. Raman.—If the Government remains neutral I can easily know the opinion of the non-official Members and then decide if I should press this Bill.

President.—I do not know whether you can make such stipulations. You have brought a Bill. You must be prepared to satisfy that there is ground for the acceptance of the Bill by the House. Satisfy the Members that your grounds are strong and that, therefore, the Bill ought to be accepted.

Mr. M. K. Raman.—That is so far as the non-official Members are concerned.

President.—The Government may form an opinion for the time being. They may change. Opinions once formed are not eternal. Suppose there are strong arguments. It is open to the Government to change. Why do you fight shy of the discussion? I think you have been working at this very hard.

Mr M. K. Raman.—In spite of that, you can defeat me, if all the Government Members oppose me.

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President.—Every Member has to satisfy himself that he has done his best. If failure is the result, he is not responsible.

Mr. M. K. Raman.—I move that the Bill to amend the Cochin Chief Court Regulation be read in Council.

Mr. K. Ayyappan.—I second it.

President.—The motion having been made and duly seconded, the principles of the Bill and the general provisions are open to discussion.

Please go on.

Mr. M. K. Raman.—The objects and reasons which I have given as an introduction to my Bill will speak for itself, and from it, it will be clear why this Bill has been introduced by me. I would again request the Government in this matter also to keep on a neutral attitude, so that the opinion of the non-official Members may be ascertained fully and the fate of the Bill be decided upon that. I have proper reasons to expect the Government to remain neutral in this matter, because the Government remained neutral on a similar occasion when a Bill was introduced to remove the provision of retaining a Christian Judge.

Sir, with regard to the claim of the non-caste Hindus, Mussalmans, Jews and other minority communities, I need not say much, because you will be able to understand by a mere reference to *the Civil List*, excepting probably the Lady Member here, there is only a single Member in service now, who is drawing a pay of over Rs. 100 in the Cochin State.

President.—Mr. A. K. Raman.

Mr. M. K. Raman.—Yes, Sir. He is the only individual who gets over a hundred rupees in the service now. My object is to remove this inequality among the various communities in the State. On taking the population you will be pleased to find that the Ezhava community numbers 2 lakhs and 24 thousand out of a total population of 9 lakhs 79 thousand according to the last census report. All the non-caste Hindu communities put together, that is to say, Arayans, Valans, Pulayas, and so many other communities, all of them put together will be four lakhs fifty-six thousand seven hundred and twenty-five. That will be nearly 47 per cent of the total population. Next to the Christian community in the State which numbers two lakhs sixty-two thousand come the Ezhavas.

President.—Christians first.

Mr. M. K. Raman.— All the denominations of the Christians put together are two lakhs and sixty-two thousand according to the last census report, and the Ezhavas are two lakhs twenty-four thousand. So, if you consider all the sections of the Christians to be one community, the second largest community in the State is the Ezhavas. My submission is, considering their

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large population and the percentage of educated people now,—I am glad to find amongthem there are several educated members —the proportion that we are having in the Government service is extremely low. Coming particularly to the Chief Court Judge's place, I need not say, Sir, that, ever since the Chief Court came into existence, there never was a Judge from the Ezhava community, nor do I remember to have heard any member of the Jewish community or the Muslim community to have ever adorned the benches of the Chief Court. Such things were going on till now, and there was nobody probably agitating sufficiently. Now I beg to submit that things have changed, and communities which were once submerged and unconscious of their strength and power have, fortunately by the education that was given to them by the kindness of the Government, become awakened, and we now feel the inequality keenly, and we feel a righteous indignation that we are not properly treated. My Bill aims only at removing that inequality and creating better harmony and peace among the various communities. My Bill is never intended to bring a communal question here or any communal animosity. My object is only to restore the communal balance, and, therefore, I request the Hon'ble Members of this House to support me in my legitimate request, and also request the Government once again not to put unnecessary obstacle in my way by opposing me, and I hope that the Hon'ble Members will assist me in carrying this Bill through this House without any unnecessary hindrance.

Mr. A. Eachara Menon.—Sir, I oppose this Bill. My object in opposing this Bill is simply to root out the virus of communalism which has spread far and wide to affect fairness, integrity and efficiency. In the statement of objects and reasons the amender of the Bill has said that all civilised Governments have recognised almost as a universal principle that the inequality in the services of the State between the various communities should be removed by giving special encouragements to the unrepresented classes by drafting into service members from them in preference to those of the well represented ones. Has the Government of the United Kingdom recognised this? Was it on this principle that Lord Reading became Viceroy? Perhaps it was so. His Lordship was a Jew, and they wanted to give the Jew a place!

Mr. A. B. Salem.—Certainly not. Won by merit.

Mr. A. Eachara Menon.—Yes. He was a man of merit. Have the Indian Government accepted this as a universal principle? What did Lord Irwin say in reply to a memorial submitted by the Mussalmans to have a Judge of their own persuasion in the High Court of Madras?

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Mr. M. K. Raman.—I don't say that efficiency should be sacrificed.

Mr. A. Eachara Menon.—Have the claims of any Thiyya been passed over in appointing Judges to the Chief Court?

Mr. M. K. Raman.—There is no question of Thiyyas alone.

Mr. A. Eachara Menon.—All the low-caste Hindus.

Mr. M. K. Raman.—Sir, I take objection to the expression low-caste Hindus. I do not consider any one to be a high-caste Hindu.

Mr. A. Eachara Menon.—I beg your pardon. Which of the non-caste Hindus, Mussalmans, etc., were passed over when the appointments were made to the Chief Court? I pause for an answer. None! Let us consider what His Lordship had said. "There is the particular question referred to in one of your addresses regarding the absence of any Muslim in the High Court of Madras. I am aware of the reply given in 1926 by Sir C. P. Ramaswami Ayyar as Member of Council to the effect that Government would try to recruit a suitable Muslim, if possible, to the Bench. I am also aware of the serious disappointment of Muslims, that no Muslim has been appointed in any subsequent officiating vacancy. But while I am constrained to make it plain that appointments of High Court Judges *are not and cannot be based on racial or communal considerations*, I would repeat and confirm what the Local Government have previously said that the claims of Muslims for such posts so far from being ignored are most carefully and scrupulously considered on every occasion. The ultimate solution of such difficulties, as you have mentioned, lies, as you yourselves recognise, in Muslims making good their claim by education and otherwise to an adequate share in the Public service on the ground of merit alone".

When Mr. M. K. Raman, M. A., B. L., was appointed a Magistrate, I thought why Government went out of their way to appoint him direct as a Magistrate, when here every B. A., B. L. of the high-caste Hindus is appointed a Registrar or a clerk. Then I thought it was to give to the Ezhuva community a stimulus to educate themselves to gain higher posts. What came of it? There we found that M. A., B. L. alone is not the index of real worth, there is something else.

Mr. C. J. Mathew.—Personal remarks are made.

Mr. A. Eachara Menon.—I said Mr. M. K. Raman, not this gentleman, the Member for Ezhuvas.

President.—Personal remarks may be avoided.

Mr. A. Eachara Menon.—Sir, there must be discipline.

President.—Do you mean to suggest that Mr. M. K. Raman was wanting in discipline?

Mr. A. Eachara Menon.—I do not want to enter into personalities.

President.—It is better that that is avoided.

Mr. K. Ayyappan.—Is he disciplined enough to be a Member?

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Mr. A. Eachara Menon.—Let us not pursue that matter.

Mr. M. K. Raman.—I may tell you, for your information, I was for some time an official during the time of Mr. Vijayaraghavachari. Mine was only an acting appointment, and when the acting period was over, I took Sannad, and I told the Diwan that I may try my chance at the Bar. And fortunately when once I tried my chance at the Bar, I had no occasion to go to the Diwan for another appointment, and I did not go. The Hon'ble Member said that it was due to want of discipline that I came away. It is true that I was in a place where the Hon'ble Member himself was and where there was a lot of caste prejudice and where there was want of discipline but not in me but in Municipal money matters which that Member knows better.

Dr. A. G. Menon.—Of all the Taluks Chittur Taluk is the least caste prejudiced.

Mr. M. K. Raman.—May be. What I speak is what actually happened. Misunderstandings created must be removed. I only say that want of discipline there was, but it was not in me at all. Enquire and you will find where it was.

Mr. A. Eachara Menon.—I mean to say that, if there be any merit, there should be discipline and that there should be an aspiration lit up in the man that he may go up higher and higher in official preference. It is not mere knowledge and not 'the bookful blockheads learned in lumbered lore' who are our ideals You cannot be more careful in the appointment of Judges. You should go in for lawyers and lawyers alone and not supply those who have the hall-mark of B. A., B. L.

President.—I may say this amending Bill does not assume that incompetent, men should be appointed. Provided they are competent they may be appointed.

Mr. A. Eachara Menon.—I want to know then who all have been passed over because of the want of this amendment.

Mr. K. Ayyappan.—You have not appointed them.

Mr. M. K. Raman.—You are perpetuating one community.

Mr. A. B. Salem.—May I know if any person from the caste-Hindus has been appointed to the Chief Court who had not a law degree to his credit?

President.—Yes. There have been such appointments.

Mr. V. K. Kochunni Menon.—I also oppose the motion. The reason for introducing the Bill has been referred to in the objects and reasons given in his Bill. As for the reasons given there, they are no reasons at all; but the object is clear, and that is to get that appointment to one or the other of those

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communities. With regard to the reason that the members of those communities were not appointed as Judges of the Chief Court till now, I might ask who was the first Law Graduate among them. Before Mr. M. K. Raman was there anybody? Mr. Ayyakkutty was the first to study law; he was promoted up to the District Judge's place. Who was the first Nayar Judge in the Chief Court? It was, I believe, Mr. T. C. Krishna Menon, and he was one of the oldest among the Law Graduates in the State. The fact that there were no Judges of any particular community in the Chief Court before there were qualified men cannot be a reasonable ground for an enactment like this.

President.—That is one of the appeals to the members amongst them.

Mr. M. K. Raman.—In those days it was not necessary to have B. A., B. Ls.

Mr. V. K. Kochunni Menon.—If such a Bill is passed, the scope of selection will be so limited that the Government will be compelled to sacrifice efficiency in the interests of particular communities. There are very few Law Graduates amomg them even now in this State. Suppose there are much more competent men among other communities. Why should the service suffer?

President.—There, of course, one may be tempted to make an observation. The whole question is one of competence and not one of comparative competence.

Mr. V. K. Kochunni Menon.—This is the highest office in the State, and we must have the best men in the State, irrespective of any community. Now there are two Christian Judges in the Chief Court. Whoever complains? It may so happen at times. Until Mr. T. C. Krishna Menon was appointed, I don't know whether there was a Nayar Judge. There is no doubt a reservation so far as the Christian community is concerned, but that is no ground for extending similar concessions to other communities also. We always had a Christian Judge in the Chief Court even before. I do not know what was the reason for such a concession. Before the Regulation was passed, the Christian Judges were however invariably Europeans.

Mr. M.K. Raman.—Has the Chief Court suffered because there was a Christian Judge?

Mr.V. K Kochunni Menon.—If such a Bill is passed, even incompetent men will have to be appointed as a matter of necessity, or the Government will have to go abegging for filling up such offices When Mr. Justice Doraswami died, we had to go without a Chief Court for about a week on account of the

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difficulty of getting a successor, and the Government had to request the Travancore Government to lend the services of a person who was just appointed as an acting District Judge to fill up the vacancy in the Chief Court. This was the state of affairs. I submit, therefore, that such a Bill if passed would seriously affect efficiency of service and cannot be allowed.

Mr. K. P. Kannan Nayar.—It is for information from the mover. Where are we to add the words? The thing is you want to introduce a Bill. "Whereas it is expedient to amend the Cochin Chief Court Regulation, it is hereby enacted as follows:—This Regulation shall be called the Cochin Chief Court Regulation Amendment Regulation and it shall come into force at once. In section 3 (the word 'and' seems to be a mistake for add) add the following:—"One of the Judges shall be a non-caste Hindu, Muslim or a Jew".

We shall turn to section 3 of the Regulation.

Mr. M. K. Raman.—It is after the first paragraph.

Mr. K. P. Kannan Nayar.—I want to know where it should be added.

Mr. M. K. Raman.—After the first paragraph.

Mr. K. P. Kannan Nayar.—There are three paragraphs to that section.

Mr. T. A. Ramachandra Ayyar.—That is my amendment.

Mr. K. P. Kannan Nayar.—I am not concerned with the amendment.

'One of the Judges shall be a Christian.' Do you want the sentence to be added after this? What would be the nature of the sentence? One of the Judges shall be a Christian and one of the Judges shall be a non-caste Hindu, Muslim or Jew.

Mr. M. K. Raman.—You can correct mistakes in grammatical construction.

President.—One of the three Judges shall be a Christian and then you must say and another should be a non-caste Hindu, Muslim, or Jew. One of the Judges is already there. So this provision is for another.

Mr. T. A. Ramachandra Ayyar.—That is my amendment. I move the amendment, "to insert the words 'after the word Christian' after 'the following words' in Section 2 of the Bill."

President.—What is your amendment?

Mr. T. A. Ramachandra Ayyar.—This must be inserted after the word 'Christian.' That is the first amendment.

Mr. K. P. Kannan Nayar.—Probably it is the answer to my question.

Mr. Thomas Manjuran.—What is the effect of the amendment?

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President.—We are not concerned with the amendment, If this is passed, then we shall go on with the amendment. Now we are considering the principles of the Bill, whether the Bill has to be introduced.

Mr. Thomas Manjuran.—Amendments are not to be considered now. This is not a resolution.

President.—There we consider both together. Here we are to consider whether a Select Committee should be appointed or whether the Bill should be passed without the appointment of a Select Committee. All that will come hereafter. So, properly I think it must be one of them shall be a Christian and another shall be a non-caste Hindu, Muslim or a Jew. Did you say 'or?'

Mr. M. K. Raman.—That is an amendment.

President.—Any other Member wishing to speak?

മിസ്റ്റർ ടി. കെ. നായർ.—ഈ ബിൽ അവതരിപ്പിച്ച മെമ്പറോട് മാപ്പു ചോദിച്ചു കൊണ്ട് ഞൻ ഇതിനെ എതിർക്കുന്നു. ചീഫ് കോർട്ട ജഡ്ജിമാരായിരിക്കുന്നതു ആറും ഒരു ക്രിസ്ത്യൻ വേണമെന്നുള്ള നിശ്ചയമാണ് ഇപ്പോഴത്തെ ബില്ലിനു കാരണം. ഈ ബിൽകൊണ്ട് "നോൺകാസ്റ്റ് ഹിന്ദുവിനെ മുഹമ്മദീയനെക്കൊ, ജൂതനെക്കൊ ആക്കേണ്ടിവരും ആ അവകാശം വേണമെന്നുള്ള നിബ്ബന്ധമാണു വരുന്നതു. അങ്ങിനെ വരുമ്പോൾ ചീഫ് കോർട്ട ജഡ്ജിസ്ഥാനമൊഴിവു വരുമ്പോൾ ഇവരുടെ ഇടയിൽ യോഗ്യന്മാരില്ലെങ്കിലും ഈ ജാതിയിൽ നിന്നു ഒരാളെ വെച്ചുകൊള്ളണമെന്നുള്ളതു നിബ്ബന്ധമാകും. അതിനെയാണു് ഞാൻ എതിർക്കുന്നതു്. ഓരോ ഡിപ്പാർട്ടുമെണ്ടധികാരികളും അവരുടെ ജാതിക്കാർക്കാണ് ഉദ്യോഗസഹായങ്ങളും ചെയ്യുന്നതെന്നൊരുധാരണ പറമെയുണ്ട്. ഇതൊരു തെറ്റിദ്ധാരണതന്നെയായിരിക്കാം. എങ്കിലും അങ്ങിനെയിരിക്കുമ്പോൾ ഇന്നിന്നവർക്കു ജോലി കൊടുക്കണമെന്നു വാദിക്കുന്നതു് ആശു ശരിയായിരിക്കയില്ല. നിയമസംബന്ധമായും ഇതു ശരിയല്ല. വിദ്വാന്മാരായ ജഡ്ജിമാരെ നിയമിക്കേണ്ടതായ ചീഫ് കോർട്ടിൽ ഇന്നിന്നവരെ വെക്കണമെന്നു നിബ്ബന്ധിക്കുന്നതിനു ആർത്ഥമില്ല. ഇന്നവരെ ഇന്നിന്നവർ അവിടെ ഇരുന്നിട്ടില്ലെന്നു പറയുന്നതിനും ആർത്ഥമില്ല. അങ്ങിനെയായാൽ അവിടെ എല്ലാ ജാതിക്കാർക്കും സ്ഥലം പോരാതെവരും. പ്രാപ്തിയെ നിബ്ബന്ധിക്കണം എന്നു പറയേണ്ട നിയമസഭ ഇന്നിന്ന ജാതിക്കു് എന്നു പറയുന്നതു തന്നെ വളരെ ആഭാസമാണ്. ഓരോ ജാതിക്കു ഓരോരുത്തൻ എന്നു പറയുമ്പോൾ ചീഫ് കോട്ടിൽ സ്ഥലം പോരാതെ വരും. ഇപ്പോൾ എന്തിനു രണ്ടു ക്രിസ്ത്യൻ ജഡ്ജിമാർ എന്നു ചോദ്യം വന്നിട്ടുണ്ടൊ? ഇനി മൂന്നുപേരും ക്രിസ്ത്യൻ ജഡ്ജിമാരായിരുന്നാലും അതു ചോദ്യപ്പെടുന്നതുമല്ല. ഇതിൽ പ്രിൻസിപ്പിൾ ഒന്നാണ് വേണ്ടതു്. പ്രാപ്തി. അല്ലാതെ ഇതു നിബ്ബന്ധമാക്കിയാൽ ഇതെല്ലാ ഡിപ്പാർട്ടുമെണ്ടിലും വരും. ചീഫ് കോർട്ട ഒരു മ്യൂസിയമൊ മറെറാ ആണൊ? ഇതു പാസ്സായാൽ ഇനി ഇതുപോലെ എത്രയൊ വരും. അതുകൊണ്ടു ശവമ്മെണ്ടു ഇതിനെ നിശ്ചയമായും എതിർക്കണം. ഇഷ്ടംപോലെ എന്നു പറയുന്നതു് ഒരു നയമാണെങ്കിലും ഈ കാര്യത്തിൽ ശവമ്മെണ്ടു എതിർക്കണമെന്നാണ് ഞാൻ പറയുന്നതു്. ഞാൻ ഇതിനെ ശക്തിയായി എതിർക്കുന്നു.

മിസ്റ്റർ എം. കെ. രാമൻ കാംപിറെൻറ അയിരിക്കുന്നവരെ മാത്രമെ വെക്കാവു എന്നു റെസലേഷനിൽ ഉണ്ടു്.

മിസ്റ്റർ ടി. കെ. നായർ.—അബ്സൊല്യൂട്ട് വരില്ല. ഏതുദ്യോഗത്തിനെങ്കിലും ആളുണ്ടായാൽ അയാൾ വേണമെന്നു വരും.

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മിസ്റ്റർ എം. കെ. രാമൻ.—ആബ്സെൻസ് എന്നുവെച്ചാൽ ഉദ്യോഗമൊഴിവുവരുമ്പോൾ എന്നർത്ഥമാണ്.

മിസ്റ്റർ ടി. കെ. നായർ.—ആബ്സെൻസ് എന്നുള്ളതിനു ഈ അർത്ഥമൊന്നുമില്ല.

Mr. A. B. Salem.—The object of the mover of this Bill is thoroughly understood by everybody who can think upon this subject. It is only laudable to feel that the people of the classes that have not had the chance of going to the Chief Court Bench aspire and seek means whereby they can get that post opened to them. It shows the tendency of the times. They are pressing the Government to come out from the old groove of appointing only the caste-Hindus there. In answer to a question here this morning by the Hon'ble Member for South Ezhuvas, it has been found that there are now in service 926 caste-Hindus, who form only 17 per cent of the population of Cochin, drawing monthly salaries of Rs. 25 and above. As against this, it has been already stated in the House that there is only one Ezhuva member in the service drawing over hundred rupees. Now that disparity is at the end of 1104. So it is an up-to-date disparity. For three years here we have been pressing the Government to increase this element of representation to unrepresented classes in all branches of the service. Yet this is the result. Do you think that this is a satisfactory state of affairs? Is it possible to say that the monopoly of brain is only in particular kinds of skulls? Is it possible to do all these things? These are democratic days. I am for opposing this Bill on the ground that no communal element is to enter into this matter. (*Hear, hear.*) I am not prepared to say that there are no other people among other castes who are not now-a-days able to adorn the Chief Court Bench. I am to see as many competent people who have not been represented there going there, and it is possible for the Government to take the trouble of finding out, when the appointment is to be made there, whether there are not people competent to hold their own amidst other people who have had the chance of going before. They consider even the claims of the people who have been constantly going there. A statement has been made by the Deputy President that at times incompetent men had to be there. Well you have not given to others the chance of going there with competency. You have even allowed people without any law degree to go there. Why? Because, as the Hon'ble mover said, they happened to be the dominant caste people, and so they were selected; we had none to god-father us.

Therefore, the principle underlying in this Bill, I am sure, the Government will take full note of and will profit by the discussion in this House in selecting the pesons to go there. I am not at all sorry, if there is only one particular

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class of people going there. If the persons are found to be acceptable to all people, I would like to see three Pulayas adorning the Chief Court Bench, if they are competent men in dispensing justice to all alike evenly and justly. That will be the proudest day for the Cochin State. Therefore, it is not a Bill that has been intended for the purpose, as has been attempted to be described, of making the Chief Court a Museum for all classes and castes to be represented. I am not for that proposition. Therefore, apart from the communal aspects, this Bill is an eye-opener to the Government to see that hereafter unrepresented people are appointed. There are two Christian Judges now in the Chief Court, and at one time, I remember well, Sir, even a high personage in Cochin had to remark that one Brahmin took the place of the Christian in the Chief Court. I refer to Mr. Anantarama Ayyar's acting appointment in Mr. Justice Verghese's leave vacancy. It is a grievance that other people are not given the chance. But that is a matter of detail which the Government must consider inside themselves rather than put it in an Act.

But if the Hon'ble mover had put the wording of this Bill as a Christian or a Hindu or a Muslim, I would have supported him, because one of these would go.

President.—What did you do in the other Bill?

Mr. A. B. Salem.—I opposed.

In olden days there was a fear that the Christians may not get justice, and so they were however able to get a place. I do not know how this provision came into existence, which the history of the Chief Court will reveal. The Europeans were a predominant power, and we were under the European power and were in treaty obligation bound to accept their advice and make law like this. They wanted to appoint a Christian Judge. But that does not matter.

But this disparity in service, for instance, I do not find a single Jew appointed. The one that is seen is a Jewess. I am not prepared to say that there are not competent men amidst us. There are Graduates amongst us, and we do not go to the Government begging for appointments. There are Medical Graduates, Mathematics Graduates and so on, but we do not go begging for an appointment. If the Government are pleased to have our services, we will go and render them. If our merits are recognised by the Government and they want our services, we will unhesitatingly give them our valuable services. That is our position, and that is our position all over the world. Even yesterday, perhaps those of you who have carefully read the papers might have seen that Sir Victor Sasoon had been described as the "father of the Air sons" in India in opening the Aerial

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Club at Delhi. He is a Jew. And there are many others. We know our position, and we have our own way.

Therefore, Sir, I think this Bill savours of a communal aspect. Particularly in an era when we all want to nationalise and have freedom in India, for which the struggle is beginning in earnest and not as a child's play, we cannot have this sort of communalism. Therefore, in such a period such a Bill which will savour of a perpetuating communalism anywhere must be opposed to all feelings of nationalistic tendencies in their minds.

I, therefore, oppose this Bill on these grounds, and I pray to the Government to accept the principle that the unrepresented communities may be freely given appointments even in the Chief Court.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—ബഹുമാനപ്പെട്ട ശ്രുതമെമ്പർ രോഗമുള്ളകാര്യം സമ്മതിച്ചു. പക്ഷെ ചികിത്സ ഒന്നും വേണ്ടെന്നാണ് പറയുന്നതു്. ആരോഗ്യത്തിലിരിക്കുന്നവരുടെ സ്ഥിതിയിൽ രോഗികളുമാകണം എന്നാൽ ചികിത്സ പാടില്ല എന്ന പറയുന്നതിന്റെ അത്ഥം മനസ്സിലാകുന്നില്ല. ഒരുവേള ലുയി കുനി ചികിത്സ മതിയെന്നായിരിക്കാം മെമ്പർ അത്ഥമാക്കുന്നതു്. അതിനും വേണമല്ലൊ നല്ല വെളിച്ചവും വായുവും വെള്ളവും. ചില സമുദായക്കാരുടെ സ്ഥിതി ആലോചിച്ചാൽ അവക്ക ഇവിടെ വളരാൻ ഈ വെളിച്ചവും വായും വെള്ളവും തന്നെ ശരിയാണൊ? അതുണ്ടായിരുന്നെങ്കിൽ അവർ കമ്മ്യണലിസം പാടില്ലെന്ന എത്ര മുമ്പെ വാദിക്കുമായിരുന്നു. കമ്മ്യണലിസം കമ്മ്യണിറ്റീസ് ഉള്ളതുകൊണ്ടാണ്. കമ്മ്യണിറ്റീസ് വേറെവേറെ അല്ലാത്തതുമാറി നാഷനലിസം വരുത്തുവാൻ ഈ നാഷനലിസവാദികൾ ഇതേവരെ എന്തുചെയ്തു? ഇപ്പോൾ കമ്മ്യണലിസ്റ്റ്സ് എന്ന പറയുന്നവരാണ് കമ്മ്യണിറ്റീസ് എല്ലാം പോകണമെന്ന വാദിക്കുന്നവർ. ഇവിടെ ഇപ്പോൾ രാജ്യമെന്ന ഒന്ന ഇല്ല. ജാതിയെയുള്ളു. ആ സ്ഥിതി വിസ്തരിച്ചു വാദിച്ചിട്ടു ഫലമില്ല. ആകാശത്തിന്റെ അറ്റത്തു കയറി നിന്ന കസത്തു കാണിച്ചിട്ട ഒരു രാജ്യതന്ത്രമാണെന്ന പറഞ്ഞാൽ ഒരു അത്ഥവും ഇല്ല. ഇവിടെ സ്ഥിതി എങ്ങിനെയെന്ന നോക്കുക. ഇവിടത്തെ ഒരു ഈഴവനൊ നായരൊ ക്രിസ്ത്യനൊ കോഴിക്കോട്ട ചെന്നാൽ അവിടത്തെ ഈഴവനും നായരും ക്രിസ്ത്യനും ആ ആളെ സ്വന്തമായി കരുതുന്ന. അവിടന്ന ഇങ്ങോട്ട വന്നാലും ഫലം അതുതന്നെ. ഇവിടത്തെ ഒരു ജാതിയിൽ പെട്ട ആൾ പുറത്തുള്ള ഒരു സ്വജാതിക്കാരനോളം ഈ രാജ്യക്കാരനായ ഒരു അന്യജാതിക്കാരനെ സ്വന്തമായി കരുതുന്നില്ല. ഇതിന്റെ അത്ഥം ഇവിടെ ജാതിയല്ലാതെ രാജ്യമില്ലെന്നല്ലെ. ഇവിടെ ഉദ്യോഗസ്ഥന്മാർ സ്വവർഗ്ഗപക്ഷവാദം കാണിച്ചിട്ടില്ലെങ്കിൽ സമുദായപ്രാതിനിധ്യത്തിനുള്ള വാദം വരില്ലായിരുന്ന. ഈ പരമാത്ഥങ്ങളെല്ലാം മറന്ന കമ്മ്യണലിസം പാടില്ല പാടില്ല എന്ന പറയുന്നതിനു എന്തത്ഥമാണുള്ളതു? പരമാത്ഥത്തിന്റെ നേരെ കണ്ണടച്ചാൽ ഫലമില്ല. അതു അവരവരെ വഞ്ചിക്കാനും അന്യരെ വഞ്ചിക്കാനും മാത്രം കൊള്ളാം. ഞാൻ ഈ ബില്ലിനെ താങ്ങുന്നതു ഈ രാജ്യത്തു ചില സമുദായങ്ങൾക്കു സമുദായപ്രാതിനിധ്യമില്ലാതെ രക്ഷയില്ലാത്ത സ്ഥിതി ഉള്ളതുകൊണ്ടാണ്. യോഗ്യതയില്ലാത്തവക്ക ഉദ്യോഗം എങ്ങിനെ കൊടുക്കുമെന്ന ഒരു വാദം സമുദായപ്രാതിനിധ്യവാദികൾ പറയാറുണ്ട്. സമുദായപ്രാതിനിധ്യവാദികൾ യോഗ്യതയില്ലാത്തവക്ക ഉദ്യോഗം കൊടുക്കണമെന്ന ഒരിക്കലും വാദിക്കുന്നില്ല. യോഗ്യത ഉണ്ടായിട്ടും

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ചില സമുദായങ്ങളിൽ പെട്ടവക്ക് ഉദ്യോഗങ്ങൾ കിട്ടാൻ ഇടവരുന്നില്ല. ആ സ്ഥിതി പരിഹരിക്കാൻ മാത്രമെ സമുദായപ്രാതിനിധ്യവാദികൾ പറയുന്നുള്ളൂ. ഈ കൌൺസിലിലെ ഒരു ദൃഷ്ടാന്തം തന്നെ പറയാം. ലേഡി മെമ്പറുടെ നമ്പൂതിരി റിഫോം ബില്ലിനെ നെല്ലായി മെമ്പർ എതിർത്തതു ജാതിക്കാരണം പറഞ്ഞാണ്. ഉദ്യോഗപ്രാതിനിധ്യത്തിനു ഞങ്ങൾ വാദിച്ചാൽ ജാതി പറഞ്ഞു ഉദ്യോഗങ്ങൾ ചോദിക്കരുതെന്നു ആക്ഷേപം. ജാതി പറയാതെ ഞങ്ങൾ വല്ലതും നല്ലതു ചെയ്യാമെന്നുവെച്ചാൽ അപ്പോൾ ജാതിക്കാരണംപറഞ്ഞു അതിനും ആക്ഷേപം. ഈ ഡയലമായിൽ നിന്നു രക്ഷപെടാൻ ഞങ്ങൾ എന്താണു ചെയ്യേണ്ടതു്. ആരെന്തു പറഞ്ഞാലും ഇന്ത്യയിലെ ജാതിവ്യത്യാസങ്ങൾ എല്ലാം പോയി യഥാർത്ഥ നേഷൻ ഉണ്ടാകുന്നതുവരെ ആധുനിക സമുദായങ്ങളുടെ മുറവിളിക്കു ശമനം ഉണ്ടാകയില്ല. സമുദായപ്രാതിനിധ്യം പാടില്ലെന്നു വാദിക്കുന്നവർ അതുകൊണ്ടു ദോഷമുള്ള ചില ജാതികളിൽ പെട്ടവരാണു. സമുദായപ്രാതിനിധ്യം വേണമെന്നു വാദിക്കുന്നതു അതുകൊണ്ടു ഗുണമുള്ള വേറെ ചില ജാതികളിൽ പെട്ടവരുമാണ്. അതുകൊണ്ടു രണ്ടു പക്ഷക്കാരും അവരവരുടെ ജാതികളുടെ ഗുണത്തിനു വാദിക്കയാണെന്നതു തെളിയുന്നുണ്ട്. ഇതിൽ ഏതു ജാതികളുടെ വാദമാണ് ന്യായം എന്നു നോക്കാനുള്ളൂ. ഉദ്യോഗങ്ങൾ എല്ലാം ഞങ്ങൾ തന്നെ എടുക്കട്ടെ എന്നു ചില ജാതിക്കാർ പറയുന്നതു ന്യായമാകയില്ല. ഉദ്യോഗങ്ങളിൽ ഒരു പങ്കു ഞങ്ങൾക്കും തരികയെന്നു ചില ജാതിക്കാർ പറയുന്നതു അന്യായമാവുകയുമില്ല. കമ്യൂണലിസം പാടില്ലെന്നു വാദിക്കുന്ന കാൺഗ്രസ്സുകാർ നെഹ്റു റിപ്പോർട്ടിൽ അധഃകൃതരെ ഉദ്ദേശിച്ചു സമുദായപ്രാതിനിധ്യം വേണമെന്നു പറയാതിരുന്നതും മുഹമ്മദീയരെ ഉദ്ദേശിച്ചു അതു അനുവദിച്ചതും എന്തുകൊണ്ടാണ്. അതു താടിയുള്ളപ്പനെ പേടിയുള്ളതുകൊണ്ടു മാത്രം (ചിരി.) ഇതിന്റെ അർത്ഥം അവരവരുടെ ആവശ്യംപോലെ ഇവക്കൊക്കെ എന്തും വാദിക്കാമെന്നും ചെയ്യാമെന്നുമല്ലെ. യോഗ്യത മാത്രമെ ഉദ്യോഗവിതരണകാര്യത്തിൽ നോക്കാവൂ എന്നു പറയുന്നവർ തന്നെ വേറെ രാജ്യത്തുള്ളവക്കു ഉദ്യോഗങ്ങൾ കൊടുത്തുകൂടെന്നു പറയുന്നതു ശരിയാണൊ. യോഗ്യത മാത്രമെ നോക്കാവൂ എന്നു പറയുന്നവർ തന്നെ അവക്കു ഉദ്യോഗങ്ങൾ കിട്ടാൻ ലീഗ് ഓഫ് നേഷൻസിലെ സിക്രട്ടറിയറിയിലെ ഉദ്യോഗങ്ങളിലെ പങ്കു ഇന്ത്യക്കു വേണമെന്നു പറഞ്ഞു വാദിക്കുന്നുണ്ട്. ഇതെല്ലാം എല്ലാവക്കും അറിയാവുന്ന സംഗതികളാണ്. അർത്ഥമില്ലാത്ത ആദർശവാദങ്ങൾകൊണ്ടു ഞങ്ങളെ തോല്പിക്കാമെന്നു ആരും തെറ്റിദ്ധരിക്കേണ്ട. ഞങ്ങൾക്കു ഉദ്യോഗങ്ങൾ തരാതിരിക്കാൻ കഴിഞ്ഞേക്കാം. ഞങ്ങൾക്കു അധികാരം കയ്യിലില്ലാത്തതുകൊണ്ടു. എന്നാൽ അതു ശരിയാണെന്നു ഞങ്ങളെ വാദിച്ചു സമ്മതിപ്പിക്കാമെന്ന വ്യാമോഹം ആർക്കും ഉണ്ടാകേണ്ട. സംഗതികളുടെ പരമാർത്ഥങ്ങൾ ഞങ്ങൾക്കും അറിയാം. ഈ ബില്ലു് തള്ളിപ്പോകുന്ന കാര്യം പോകട്ടെ. ഞങ്ങൾ വീണ്ടും വീണ്ടും ശ്രമിച്ചുകൊണ്ടിരിക്കാം. ഞങ്ങളുടെ സങ്കടം പരിഹരിക്കപ്പെടാതെ ഞങ്ങൾ അടങ്ങുമെന്നു വിചാരിക്കേണ്ട.

Dr. A. R. Menon.—Sir, I rise to oppose this Bill, and the reasons that prompted me to oppose are a little different from those which have already been offered in this House. The strength of the argument of the previous speaker was that all the Members of this House should vote for this measure. I am not afraid to stand in comparison with him before any audience or any mode of judges, and I am completely satisfied, if there is any one in opposition, it is the previous speaker. No one has

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done so much to keep away the different sections of the Hindus far far away as the previous speaker. Such a person, when he criticises the Hon'ble Member for Jews, should remember that those who live in glass houses should not throw stones. But in this matter I may say, at the very outset, I do not like lawyers or the legal profession. Therefore, my remarks will be a little prejudicial to those of my lawyer friends, and while I honour their intellect, it has been my experience that I cannot honour, generally speaking, the character of these professional men, their public character.

Mr. K. P. Kannan Nayar.—Legal profession or the medical profession ?

Dr. A. R. Menon.—Legal. What is the process ? I was sitting once in the consulting room of one of my lawyer friends who commands the widest practice in Trichur, and a man comes before him and he asks "who the devil are you, Sir?" The man says, "do you not remember me, I have committed so many murders and thefts, and you were able to let me off, and unfortunately, in spite of the stupidity and foolishness and incapacity of the police, I am now booked." Then he asks; "what has brought you here?" He replies ' I have got another case." "Go and repeat all the facts to the clerk." The clerk is the chimney through which the smoke ascends to the heaven, and after purification it is placed before the master. The master takes this indigestible material and patronises the whole thing so as to make a fashionable, delightful and digestible material so as to shove it down the throat of the unfortunate Judge.

President.—What is the relevancy of this argument ?

Dr. A. R. Menon.—The relevancy is coming. Anybody who reads the statement of objects and reasons will see how just, how reasonable these things are. This has undergone a process of patronisation, and it has been rendered very digestible, and what is it ? He wants us to think that, if any of the members of the community is appointed in the Chief Court, immediately all the members of the community will be benefited. Will any one say—who is sitting either in this Council or outside—that there is a sufficient number of educated men in the community ? What is the fun of coming and saying that I represent 2½ lakhs ? I can very well say that I represent 9 lakhs. Who is to question that ? Anybody can simply come here and say that I represent 2½ lakhs, give me a job. Because, by conferring a job on him, the social status of 2 and odd lakhs will be raised. I will put it in a fine way. It may indirectly raise the status of the community or the people whom the individual represents. Now just consider. If you go to the logical conclusions of this provision, I was waiting for somebody to say, and

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the Member of Ezhuvas, Mr. Ayyappan, said that there was a lack of confidence in the Chief Court unless some of the members of their own community are on the Bench. I was waiting for that. Cannot the ladies of the State say that man-made law is always one-sided law and also disadvantageous to them? If anybody says so, that can be taken as true. If anybody were to say that ladies should be represented on the Chief Court Bench, I would certainly consider that they have made out a good case. In the history of law and administration of law women were placed at a disadvantage. There is no doubt. Now suppose a difficulty arose, they held a meeting and they decided that there were differences between married and unmarried women. And I think the Education Department is flooded with communications that equal privileges are not given. Therefore, there must be two ladies on the Bench, one representing the married and the other representing the unmarried women. Then there is a section, the official ladies or the employed ladies and the ladies in the domestic life. There is also a clash of opinion between them. That will make 4 Judges. Then there are various sub-communities; each one claiming representation in the Chief Court. All these sub-communities will say that we have no trust either in the Ezhuva Judge, Christian Judge or the high-caste Hindu Judge. And, therefore, on a moderate calculation we will have 100 Judges on the Chief Court Bench. If you pass this Bill, I shall give a solution. There is a likelihood of the College being removed, in spite of the protest of the Hon'ble Member for Trippunittura to Anappara. The two buildings will be vacant, and we shall utilise these buildings, one as a High Court for the Judges and the other for the clients to sit. And as a matter of compensation for transferring the College we will transfer the Chief Court and make it a High Court, and then our Chief Engineer will also put very high iron walls and the public can also enjoy. It is very difficult to tackle this matter in the Legislative Council with all seriousness. You scratch my back and I shall scratch your back. That is the underlying principle.

If we have no competent men in the State in any community (Christian, Mohamaden or Ezhuva), and if the Bill is passed, we will be compelled to bring somebody from outside, and when I said the same thing on a similar occasion I thought that the Member for Jews would swallow me by his protest.

Now we shall see who are the members available from the communities referred to in the Bill. There is only Mr. Salem among the Jews with the necessary qualification, and then among the Ezhuvas I think there are only two, Mr. Raman and Mr. Maman, and I understand that Mr. Maman is not inclined

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to accept the place; and Mr. Seethi among the Mohamadens. What a calamity to this side of the House will happen—I cannot imagine—if Messrs. Salem, Seethi and Raman are to leave us! They are the life and soul of this Council.

I oppose this Bill because, if the Bill is passed, these three friends of ours will have to part with us, and their services are indispensable to us. The only advantage that we will derive by passing this Bill will be that the unemployment problem among the vakils would be solved to a very great extent.

One word to the Government. When you are thinking of the question, do not be frightened. Do not think that there will be agitation from the Himalayas to Cape Comorin. Consider whether the question is reasonable and just, and if you are satisfied that the question is just and reasonable, do not be afraid of non-co operation, *sathyagraha* and mass disobedience. Do the right thing. Now out of policy you did not do the right thing, and the Member is absolutely entitled to bring in another Bill in the light of the progress that has been achieved. We do not countenance these sectarian appointments in the Chief Court. You should not assume the role of neutrality. A man may sometimes inadvertently or unconsciously play a woman's part. If you play the part of neutrality for a long time, there is a chance of your becoming a gang of *Sikhandies*. I tolerate incompetent, indifferent or idle men womanly men; I cannot tolerate. If you think that the Bill is reasonable, then support it, but if it is not so, then oppose the measure.

Mr. K. P. Kannan Nayar.—My only regret is that this Bill should have been sponsored by a lawyer. The object of the Bill is that certain communities should be given a reserve place in the highest court of the land. I must request you at the very outset to be a little charitable to me so far as this matter is concerned. I know I am a member of a particular community which, according to the mover, is characterised as influential in the objects and reasons in the Bill. This Bill intends removing inequalities. There is an insinuation, that the influential classes have monopolised all the places. But I am not speaking as a member of that particular community, but I am only speaking here as a lawyer. I belong to that noble profession—whatever my friend, the Hon'ble Member for Trichur, might say with reference to this profession. He might probably have seen only the worst part of that profession, and probably, his experience was with the worst man of that class. So far as this is concerned, what is the object of the Bill? We all should know, however much it may be desirable to equalise the number of appointments in any Department according to the number of educated men in the several

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communities, so far as the administration of justice is concerned, so far as the judicial administration is concerned, there should be absolutely no consideration—any communal consideration—with reference to this matter. Administration of justice should be pure, it should be impartial and should not be adulterated in any manner possible. That should be our aim. Whether the Government has been aiming in its past conduct to achieve that end is another matter. But to perpetuate all these class distinctions by making provisions in a Bill, *i. e.* to say, that appointments to the highest court in the land should be in such and such a proportion to such and such communities, I think, is most reprehensible, is most undesirable. This is the highest court in the land you must understand, and all people who have to go there, they are going there for justice. That is the last place and the Royal Court of Appeal is gone; and the Chief Court is the only final Court of Appeal, so far as the clients of Cochin are concerned, to whatever classes or communities they may belong, and the only consideration that should weigh with the Government is to appoint competent men who are qualified to administer law impartially, independently, without favour and favouritism.

Mr. A. B. Salem.—And without fear also

Mr. K. P. Kannan Nayar.—Yes, without fear also. It should not be said that A should be appointed because he belongs to a particular community, or that B should be appointed because he belongs to another community. For the mischief that there is, so far as the Bill is concerned, I cannot blame the mover for having introduced this Bill. The mischief is mainly on account of the attitude of the Government itself with reference to this matter. I shall explain myself. Whatever might have been the origin of the Bill, the last sentence in the 1st clause of section 3 of Regulation II of 1076 says "one of the Judges of the Chief Court, shall be a Christian". In the preamble of the present Bill it is stated that ever since 1076 one seat has been reserved for a particular community. Now, as a matter of fact, even before 1076 for if you just run or go through the history of the Chief Court and its constitution, ever since it was established, probably, there were Christians adorning the Bench of the Chief Court. There was in my opinion absolutely no necessity to introduce such a clause there in 1076; whatever might have been the reason, whether on account of the fear of the dominant power or whether it was a mistake or not, there was an attempt made here by the Hon'ble Member for Jenmies to repeal that clause of the section; but the attempt was characterised as mischievous propaganda; it was considered to be a class propaganda. In fact I heard Members

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saying here, if you are going to interfere with this, if you are going to support this Bill, a vigorous agitation from the Himalayas to Cape Comorin will take place. Here is a warning; take it and do what you like, and that had its effect. The previous speaker said the Government assumed a neutral attitude so far as that Bill is concerned. Now, if the Government was satisfied, whatever might be the reasons in the year 1076 or afterwards to insert that clause there, when the Government found that it was an unjust thing that competency alone was the main consideration, that, if the candidate had all the attainments and all the qualifications to make him fit for the appointment, that alone should be taken into consideration, and yet when you perpetuate the mistake by retaining that proviso in the Regulation, it is only but natural that other communities would like to introduce or to have introduced such a clause here, to insert a clause for Mohamedans, for Ezhavas, for Jews and for Pulayas. The mistake is not theirs, and the initial mistake was committed by the Government; when it was sought to be righted, you simply stated, "let us see the sense of the Council here," and you remained neutral. We know how the Council is constituted. However much you may say there is no communalism, you find as a matter of fact an under-current of communalism is running. Whenever questions relating—even distantly relating—to that thing is coming up, we find feelings arising. It is only natural. You must view impartially. So far as the other Departments are concerned, I want to know why my friend is not introducing a measure, and why he is introducing a measure so far as the Chief Court alone is concerned. He does not want to say anything with reference to the Civil Court Regulation or any other Department. I really cannot understand why. Because there is a clause here enabling a particular community to have a place secured there, and it is there—it is that clause that prompts people to introduce such measures. That is why I say there was a mistake committed by you. If there was no necessity, you should have certainly supported that Bill when it was introduced. In fact it was thrown out by a dilatory motion here, and that would not have been thrown out, if you had set your foot against that, and the result is, here is another Bill cropping up. How is it that you are opposing this Bill, consistently with the attitude taken then? In fact my case is that they were wrong in having adopted a neutral attitude. My case is only put in competent men. I have absolutely no objection, if all the three people are Christians or Mohammadans or Ezhuvas. The only criterion should be efficiency. Now what I say is, what we have to consider in a matter like this is, here we are considering the constitution of the Chief Court; if you are going to reserve

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a place for all communities on the population basis, then there will be no end. Whatever might be the truth of this, so far as other appointments are concerned, I am sure no civilised Government has ever recognised such a principle so far as judicial service is concerned, and that too with reference to the highest court in the land. But so far as other Departments are concerned, there may be this principle.

Mr. Thomas Manjuran.—What is the Public Service Commission of Madras for?

Mr. K. P. Kannan Nayar.—They are not concerned with the appointment of the Judges of the High Court.

Mr. Thomas Manjuran.—Why was Mr. Justice Tyabji imported from Bombay? Is it not for want of a Mohammadan?

Mr. K. P. Kannan Nayar.—They might have accepted the principle, but I am only asking whether there is any clause in any statute. Then where is the necessity for a statute? Why do you want a statute?

Mr. Thomas Manjuran.—If you don't give otherwise, we want a statute.

Mr. K. P. Kannan Nayar.—You may ask the Government to administer things in a particular manner, *i. e.*, in an impartial manner. That the constitution of the Chief Court should be amended so as to suit a particular community is something which I really cannot understand. So far as the first sentence is concerned, I could not find any provision in the statutes of any civilised or uncivilised country. It has been observed by Lord Irwin in reply to a deputation from the Mohammadans of Madras for the appointment of a Mohammadan Judge to the High Court of Judicature at Madras in the following terms:—"You should not aspire simply because you belong to a particular community. High Court is not a place for communal representation." That is the policy of civilised Governments. At least so far as the Chief Court is concerned, I cannot understand this principle. The second sentence in the statement of objects and reasons does not also seem to be purely correct. So far as the Chief Court is concerned, the Deputy President asked who were the competent persons whose claims were overlooked from the particular communities which is the subject-matter of this discussion. They are only getting themselves educated. Is it the fault of the other people that they were in the field first? The third sentence of the objects and reasons says that it has been the exclusive privilege of the Christians from the year 1076. That is incorrect. I know as a matter of fact Christians were in the Chief Court even before 1076. They have been in the Chief Court ever since 1076 on account of the statutory recognition of the provision there. That is the only thing. Whatever may be the state of affairs, time

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has advanced when the claims of all the communities should be considered for appointments in every Department; but I warn you, so far as the highest court in the land is concerned, don't carry this principle there. Only appoint people whom you consider competent to administer impartial justice. There may be an unwritten understanding, and they must try to influence the Government. Let the Government do like that. Is it because there is a statute that there are two Judges now in the Chief Court who are Christians? We have absolutely no objection for that. Because the Government found that those were the two people competent to be appointed, they were appointed to those particular places. You will find when you read the objects and reasons there is an insinuation underneath all these things, and that reminds me of an observation made by the Hon'ble Member for Trichur "you scratch my back I scratch yours".

Mr. A. B. Salem.—Oh! that is an old principle.

Mr. K. P. Kannan Nayar.—And that is why so far as this clause is concerned, why an appeal was made to the Government block "you please remain neutral; let us see; then you will understand the non-official opinion". My object in making this observation is because you failed in your duty on a former occasion.

President.—Not at all.

Mr. K. P. Kannan Nayar.—That is my view. Whatever might be the justification at that time, I know it for certain that, when the Chief Court Regulation was sent to the Imperial Government for approval, there was not this clause there. When Sir P. Rajagopalachari came, it is he who introduced it.

Mr. Thomas Manjuran.—Questioned. That is entirely wrong.

Mr. K. P. Kannan Nayar.—If you are going to perpetuate this, then other people will also be coming. The Government will have absolutely no answer, unless the Government are prepared to make the Chief Court a menagerie. Are you going to do it? So it is only in that view I am opposing this Bill. I do not want to oppose the passing of this Bill from any other point of view. So far as the Chief Court is concerned, appoint the best and competent men to whichever community they may belong.

The House rose for lunch at 2 p. m. and met again at 3 p. m. with the Deputy President in the Chair.

Deputy President.—We shall continue the discussion. Anybody desiring to speak anything?

Mr. V. D. Ouseph.—I support the motion. One of the reasons given by those who opposed the motion is that, if this

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Bill is brought into force, incompetent men may become Judges. Our Chief Court Regulation has provided against such a contingency. It provides that only *competent* men can be appointed. Another difficulty suggested is that, in our State, at present, there are not competent men in the communities in question. I think Mr. Salem is a competent man (*hear, hear*). There is Mr. Seethi. There is Mr. Raman. One of them is enough for our purpose; therefore, we shall not be without competent men from among them for the post. That reason also is, therefore, unsound. Now let us suppose that there are no competent men in the State. What did the Government do in the past in the case of caste-Hindus and Christians when there were no men competent in the eyes of the Government? They went and borrowed men from other States. The Deputy President was referring to the so-called unfortunate importation of Mr. Cherian. But what about Mr. Eradi? He was also imported. That was a time when there were not competent men in all communities in our State. But high-caste Hindus became educated first, so that now there is no difficulty so far as that particular community is concerned. Christians came up next. After that, other communities are also coming up. So that, hereafter there would be no difficulty to get competent men either from here or from outside. The purpose of this Bill is not, as remarked by one of the speakers, to convert the Chief Court Bench into a museum so as to represent all communities in the State. The speaker's idea of preserving it as a rubber garden, as it were, for some particular species alone to flourish there, is not at all proper. Not only should the Judges be fearless, honest and above corruption, but they must infuse confidence in the litigant public. So long as there is a cry in the land that in the State service communalism exists, we must try, at least so far as the Chief Court is concerned, to take away that impression. There is the litigant population. They must know that the Judges whom they go to are persons from whom they can get equal justice. It is not my suggestion that, even if all the Judges belong to one community, justice will not be properly administered. But the people will not be satisfied. Chief Court has got two functions, it should not only administer justice, but it must command public confidence. Without affecting competency, without affecting efficiency, if you can have a system by which you can achieve both, why not adopt it? This is a Bill which can do no harm to anybody. At the same time it has its own function in the present requirements in our State. So far as the wording of the Bill is concerned, certain suggestions have been made by some of the Members. All that can be done at the final stage. We need go now only into the principles underlying the Bill.

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Its aim is only to provide, as far as possible, without affecting efficiency, for communal representation in the Chief Court also. That is the highest court for us. Some suggestion was made that in other places there is no statutory provision for this. Though there be no statutory provisions in other places, we know there are conventions and rules made for that. This fact also has been referred to in the speeches of His Excellency the Viceroy. A statutory provision is necessary here, because, but for such a provision, even the conventional rules may not serve the purpose in our State. It was suggested that this Bill is a mischief brought about by the existence of the statutory provision for a Christian Judge. My submission is that the only purpose of the Member for Jenmies to introduce his Bill was to sow the seed of communalism in this House. It is not this Bill, but it is the other Bill that did the mischief. There was no suggestion from any quarter that the provision for a Christian Judge ever worked any hardship, so far as the State is concerned. You do not want to change the Chief Court into a museum, but only want to preserve it as a rubber garden.

Mr. T. A. Ramachandra Ayyar.—What is a rubber garden, please?

Mr. V. D. Ouseph.—That is a place where we can find only one species, that is, rubber alone. In a museum all kinds of things are represented. With these remarks I support the Bill.

മിസ്റ്റർ ഐ. ഇ. അമ്പൂക്കൻ.—ഞാൻ ഈ ബില്ലിനോട് യോജിക്കുന്നു. ഇതിന്റെ തത്വം ശരിയല്ലെന്നു പറയുന്നതിനോടും യോജിക്കുന്നു. അതുകൊണ്ടാണ് ഈ ബിൽ വേണമെന്നു പറയുന്നത്. ഒരുതെറ്റു വേറെ ഒരു തെറ്റുകൊണ്ടു വേണം പരിഹരിക്കുവാൻ. ഉണ്ണുമുണ്ണുന്നു ശാന്തതേ. ഒരു തെറ്റിനാണ്. നടക്കുന്ന ഉദ്യോഗവിതരണം ശരിയാണെങ്കിൽ ഈ ബിൽ വരില്ല. ആ തെറ്റു തീർക്കുവാനാണ് ഈ തെറ്റായ ബിൽ. ഇതു ശാശ്വതമായിരിക്കുമോ? ഈ ഉണ്ണും മാറുമ്പോൾ ഇതു വേണ്ടെന്നു മറ്റൊരു ബിൽ കൊണ്ടുവരുമതു? എതിർക്കുന്നവരുടെ വിചാരം ക്രിസ്ത്യൻ ബിൽ പോലെയാണിതുമെന്നായിരിക്കാം. ഇതു തത്വത്തിൽ തെറ്റാണെന്നു സമ്മതിക്കുന്നു. ഇതു ആവശ്യമില്ലെന്നു തോന്നുമ്പോൾ എടുത്തുകളയാം. ഇപ്പോൾ ആയിട്ടില്ല. പരിതഃസ്ഥിതികളും നോക്കണം. കമ്മ്യൂണലിസം, നാഷനാലിസം എന്നു പലതുമൊക്കെ നന്നു്. പക്ഷെ അവയെ ബുദ്ധിയോടുകൂടി പ്രയോഗിക്കണം. അസമത്വമില്ലെന്നു മനസ്സാക്ഷിക്കു യോജിച്ചു് ആർക്കും പറവാൻ സാധിക്കുമോ? ഗവർമ്മെണ്ടിന്റെ തെറ്റിനെ തീർക്കാൻ മാത്രമാണ് ഈ ബിൽ. ശരിയായാൽ ഇതിനെ റിപ്പീൽ ചെയ്യുവാൻ ഒരു ബിൽ കൊണ്ടുവരാം. ക്രിസ്ത്യൻ ബില്ലിനുതന്നെ കാരണമെന്താണ്? എല്ലാ ബില്ലിനും ഓരോ കാരണമുണ്ടായിരിക്കണം. അതേമാതിരി ഈ ബില്ലിനും കാരണമുണ്ടോ എന്നാണ് നാം നോക്കേണ്ടതു്. ഉണ്ടെന്നുവെച്ചാൽ സമ്മതിക്കാതെ കഴികയില്ല. ഇതു ആവശ്യമാണെന്നവന്നാൽ എല്ലാവരും ഇതിനെ താങ്ങാതെ കഴികയില്ല.

മിസ്റ്റർ ഔസെപ് പി. കുണ്ടുകുളം.—ഞാൻ ബില്ലിനെ പിന്താങ്ങുന്നു. ക്രിസ്ത്യൻ ബില്ലിനു രണ്ടു കാരണങ്ങളാണുണ്ടായിരുന്നതു്. ഓരോരുത്തർക്കു കൊടുത്തിട്ടുള്ള അവകാശങ്ങൾ അവരവർക്കിരിക്കേണ്ടമെന്നുള്ളതു ഒന്നു. രണ്ടാ

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മത്തേതു ഇതിന്നും ചേരും. ക്രിസ്ത്യൻകൂട്ടത്തിൽ പിന്തുടർച്ചയായി ഇരുപ്പുനവ ധി വധിയാളന്മാരെ കാണുവാൻ കാരണം അന്നത്തെ ആ നിയമമാണ്. അ തുപോലെ കണക്കുനോക്കി അതനുസരിച്ചു ഉദ്യോഗം കൊടുക്കുന്നതു ഗവമ്മെ ണ്ടിന്റെ ചുമതലയാണ. റെസ്പോൺസിബിൾ ഗവമ്മെണ്ടു ചീഫ് കോടതി യിൽ വെച്ചാൽ ഇതു പിന്നെ താഴെവെച്ചും തുടങ്ങും. അതങ്ങിനെ വളരുക യും ചെയ്യും. ക്രിസ്ത്യൻ ബിൽ പിടിച്ചടിയായിരുന്നുവെന്നു ഒരു മെമ്പർ പ റഞ്ഞു. അതിനെ ഗവമ്മെണ്ടു ആദ്യം ഒപ്പോസ്സ് ചെയ്തിരുന്നുവെങ്കിൽ അതു ന ടക്കുകയില്ലെന്നും പറകയുണ്ടായി. എന്നാൽ ഗവമ്മെണ്ടു ആനയം ശരിയാ യി നടത്തിയിരുന്നുവെങ്കിൽ ഈ സ്ഥിതി വരികയില്ലായിരുന്നു. ഗവമ്മെണ്ടു നടൽ ആയിരിക്കുന്നതാണ് തെറ്റ്. ക്രിസ്ത്യൻ ബിൽ എങ്ങിനെയായാ ലും നശിക്കയില്ലായിരുന്നു. ഈ ബിൽ നമ്മുടെ രാജ്യത്തു എല്ലാമതക്കാരെയും ഉദ്യോഗത്തിൽ പ്രവേശിപ്പിക്കുന്നതാകകൊണ്ടു് ഇതിനെ ഉടനെ നടപ്പിൽ വരുത്തേണമെന്നുള്ള അഭിപ്രായത്തോടുകൂടി ഞാൻ ഇതിനെ പിന്താങ്ങുന്നു.

Mr. A. Sankara Menon.—The Hon'ble Member in charge of the Bill was very anxious that the Government should take a neutral attitude in this matter. I regret very much that his request is one to which the Government cannot agree. The Hon'ble Member referred to the attitude taken up by the Government when Mr. Kannan Nayar's Bill was being discussed. In my view, that argument will not apply.

Deputy President.—It is not Mr. Kannan Nayar's Bill. It is Mr. C. A. Kunjunni Raja's Bill.

Mr. A. Sankara Menon.—Yes. What I submit is that fact cannot apply here. The whole discussion then will show that the Members who opposed the Bill put it on the ground that the Christians had a privilege and that they were not prepared to give it up, and when all the privileges enjoyed by all other communities are given up, they will be for giving it up, and they will vote for the removal of that clause from the Chief Court Regulation. Now the position is the other way. Instead of the removal of a privilege, the Hon'ble Member wants the inclusion of another. One thing may be correctly understood. There is no law which says that neither a non-caste Hindu, nor a Jew, nor a Muhammadan should have place a on the Chief Court Bench. Any subject of the State is entitled to be there if he has the necessary qualifications. Supposing there are many who have the necessary qualifications, it may not be possible to employ all of them in the Chief Court, as there are only a limited number of posts. There are certain number of Judges there. Until those Judges resign or they retire, it is impossible to put other persons in that place. Now it has been pointed out more than once that, so far as these communities, non-caste Hindus, Muhammadans and Jews, were concerned, there were very few persons who had the necessary educational qualification to be put in that place. It is on that ground alone that nobody has been put in that

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place till now. There was no rule of exclusion. They say there must be a rule of inclusion in the sense that one must be there whether there is a sufficient number of qualified men or not for that purpose. That has been made amply clear by some of the Members.

Mr. A. B. Salem.—The complaint was against practical exclusion.

Mr. A. Sankara Menon.—There is absolutely no exclusion at all. Now one other fact has to be remembered. Should we take the number of members in each community and find a solution ? That is the solution suggested. Now take the numbers in each community. What ought to be done is, take the total amount of salaries of all the employees of the Government, divide that by the number of people and then multiply by the number of members in each community and then assign posts to the members of each community according to the result. The whole statement of objects and reasons will show that this is the basis on which this Bill is brought forward. But the Hon'ble Member does not bring a Bill for that purpose. He wants to begin at the top. He wants to begin with the Chief Court, and have the rule first for the Chief Court. My submission is that it is not a matter for legislation. If there is a rule for exclusion, one can understand that that rule should be abolished by another rule or by legislation. But there is no such rule. Government's position is that each and every subject is entitled to have a place there, if he is qualified and if there is a chance of his being placed there. Three things have to be looked into—character, education and efficiency. If all these things are satisfied, I don't think any member of a community will be excluded on the ground that he does not belong to another community. Opportunity will be taken for giving a place to the three communities. I don't think the Government will be against that. My submission is that there is absolutely no ground made out for this Bill. When there was a person duly qualified and who applied for the place, did the Government veto and give the place to another?

Mr. A. B. Salem.—Is the Chief Court appointment made by applications ?

Mr. A. Sankara Menon.—I don't think that there should be applications. If an application was made by a member duly qualified, the matter would have been considered. But the question is that such an application did not go before the Government, and the Government had no opportunity of appointing a member of these classes because there were none duly qualified.

Mr. A. B. Salem.—That is the reason why I ask whether the Chief Court appointments are to go by applications.

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Mr. A. Sankara Menon.—It is based on three grounds—education, efficiency and character.

Mr. A. B. Salem.—And application.

Mr. A. Sankara Menon.—I mentioned applications, because it was suggested that there were certain members who were duly qualified to fill the place. It is significant they did not put in any application. It may be on the same ground on which the Hon'ble Member for the Jews said that no member of his community is going to make an application. What I submit is, if these three qualifications are there, a member of any of these communities has an equal or better chance than the member of any other community with the same qualifications. There is nothing to fear.

Mr. M. K. Raman.—Who is to find out?

Deputy President.—Government. Shall I put it to the votes?

Mr. T. K. Krishna Menon.—One word. I shall not repeat the arguments of the previous speakers; but one aspect of the case I wish to place before the House. Suppose this Bill is passed. Is there anything to prevent a Nayar or a Brahmin or a Gouda Saraswat Brahmin, for the matter of that, from bringing a Bill for the same purpose, namely, to enable a representative from that particular caste to which the mover belongs to have a place in the Chief Court? There is absolutely nothing. Suppose that Bill is also passed.

Mr. K. P. Kannan Nayar—It has become highly necessary.

Mr. T. K. Krishna Menon—When that Bill is also passed, there are sects among Christians, among Nayars, among Brahmins; any member of each one sect can bring a Bill to have a representative of this caste in the Chief Court.

Mr. V. D. Ouseph.—You may give them all representation.

Mr. T. K. Krishna Menon.—Man's life is not eternal to wait for his turn; for there are only three Judges in the Chief Court.

When that condition of things comes to happen, why should we confine our attention to the Chief Court? Let us take the educational institutions. There is the College. Why not bring a Bill that representatives of all classes should have a place in the professorial section of the College?

Mr. K. Ayyappan.—By all means.

Deputy President.—Let him have his say.

Mr. T. K. Krishna Menon.—I would like to be interrupted, so that I may get some time to rest. Then the College will be—who knows whether it is not already on its way thence—

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a breeding place for communal activities. The future citizens may take their lessons in them there. I submit to this House whether these things should be encouraged. If this is the way in which we should conduct ourselves, our Legislative Council will have ample work in the future.

Mr. M. K. Raman.—Sir, one argument that is advanced against my Bill is that the Chief Court is not a museum where all the different species in the country have to be preserved. My only answer to that is this. As I understand, "the Chief Court is not also a museum for the preservation of one particular species". Other species who feel envious that one species alone is preserved there are also trying to get by some means a place there. Sir, I ask you one question. Can you honestly place your hand on your heart and say that, but for the provision in the Chief Court Regulation to have a Christian Judge, there would have been any Christian Judge in that Court all this time?

Mr. P. Krishna Menon.—Quite so.

Mr. M. K. Raman.—I ask again can you say honestly that, but for this provision in the Chief Court Regulation, there would have been a Christian in the Chief Court. And because of the provision that one of the Judges should be a Christian, do you mean to say that the efficiency of the Chief Court has suffered in any way? Is there not now the best of the legal luminaries in the Judicial Department in the Chief Court? Are we not proud that we have got such efficient men from the Christian community now in the Chief Court? Is intelligence an exclusive property of your community? Can you not believe that there are intelligent men in other communities? My only submission is, under the existing circumstances, when merit is seen only through communal eyes, unless you have got a provision in the Chief Court Regulation, there is no possibility of a physically weak community getting its dues. The entire Government is in your hands, and you have particular ways of observing merit. It is not a truth that the present Government will find out the respective merits of communities. Which is this Government? I say 'you' form the Government. We have no hand in your Government, and you will not recognise us, because your eyes are slow to see merit in those who are not your own.

Dr. A. G. Menon.—What is that 'you'?

Mr. K. Ayyappan.—Some individuals. You know.

Mr. M. K. Raman.—It is a mistake to say that all the legitimate aspirations, all the legitimate grievances and the due recognition of merits of all the individual communities would be recognised here. As long as this sectarian state of affairs exists in Cochin, I submit there is no salvation for the weaker

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communities, unless there are legal provisions in the Regulations and laws which would enable them to secure their rights. That was my object in moving this Bill. Not because I was unaware of the high principles of nationalism. I say, in a State like Cochin, where you have got large communities who are entirely helpless, who have absolutely no power anywhere and whose salvation has to be worked out by themselves, and where other communities in power would trample down the less powerful ones, my submission is, unless adequate provisions are made in the laws themselves, not only in the Chief Court Regulation but in all the other laws also, unless huge pressure is brought to bear upon you, it is impossible to secure equal justice here. It is not because I wanted to throw an apple of discord here and bring about a communal discussion. As a matter of fact, you find now that those who are in power never want to part with that power. You find the thing clearly demonstrated in the discussion of this subject in the Council. Who are all the Members who opposed my Bill? Certainly those who have got the power in their hands. If I want to snatch a small portion, they say, no, it will not be given. You wanted to appropriate the whole power for you, and you brought a Bill for removing even the provision to have a Christian in the Chief Court. What did the Government do? They remained neutral. But what are you doing now? You want to defeat me. Because, if the Government do not oppose me, I will carry the day. And you don't like to part with your power. You may, by the twelve votes of all the Government officials and of the caste-Hindu Members who are but few, throw out my Bill. I expected the Government to remain neutral. You said you wanted to know the opinion of the non-official Members when the other Chief Court Bill came up, and you assumed neutrality. But where is your justice now? By a small majority of votes you will defeat me now. But I maintain you are under an illusion. The whole world knows you succeed by the twelve votes of your officials, and the large majority of the non-officials vote for me. I maintain that, as long as this inequality lasts, this cry will be pressed and pressed. You are not having a success now. You are only increasing the force of the opposition.

Deputy President.—I shall put it to the votes.

Question proposed: *That the Bill to amend the Cochin Chief Court Regulation be read in Council.*

Question put and negatived, Government opposing.

Mr. M. K. Raman.—Poll, Sir.

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The House divided: *Ayes 15, Noes 21, Neutrals 2.*

Ayes.

1 Mr. I. E. Ambooken
2 ,, A. L. Antony
3 ,, K. J. Antony
4 ,, K. Ayyappan
5 ,, P. C. Chanchan
6 ,, S. S. Koder
7 ,, A. K. Kunhi Moideen
8 ,, C. V. Kuriyan
9 ,, C. J. Mathew
10 ,, K. Mohamed Seethi
11 ,, Ouseph P. Kundukulam
12 ,, V. D. Ouseph
13 Mrs. G. Pavitran
14 Mr. M. K. Raman
15 ,, Thomas Manjuran

Noes.

1 Mr. V. V. Anantapadmanabha Ayyar
2 ,, V. K. Aravindaksha Menon
3 ,, A. Eachara Menon
4 Dr. A. G. Menon
5 Mr. K. P. Kannan Nayar
6 ,, V. K. Kochunni Menon
7 ,, P. Krishna Menon
8 ,, T. K. Krishna Menon
9 ,, T. M. Krishna Menon
10 ,, T. K. Nayar
11 ,, K. Krishna Pisharodi
12 ,, P. Kumaran Ezhuthassan
13 Rao Sahib Mr. C. Matthai
14 Mr. P. Nilakanta Menon
15 ,, T. A. Ramachandra Ayyar
16 ,, T. V. Ramalinga Ayyar
17 Rama Varmha Tampuran
18 Mr. K. Ramunni Menon
19 Dr. A. R. Menon
20 Mr. A. Sankara Menon
21 Diwan Bahadur Dr. V. Verghese

Neutrals.

1. Mr. A. S. Harihara Ayyar
2. Dr. E. A. Veigas

The following amendments were considered withdrawn :—

Mr. T. A. Ramachandra Ayyar.—(1) Insert the words 'After the word Christian' after 'The following words' in section 2 of the Bill.

(2) Omit the words 'one of the Judges be' in section 2 of the Bill and insert 'or' there.

(3) Insert at the end of section 2 of the Bill 'or one who belongs to a class or community who forms a minority of the population of the State or who belongs to a class or community who is backward in education.'

(4) Insert at the end of Section 2 of the Bill 'or one who belongs to a class or community who forms a large number of the population of the State'.

Adjournment motion re: the transfer of trunk roads from the Municipalities.

Deputy President.—We shall take up the adjournment motion.

The first speaker is Mr. Krishna Menon. Let him begin.

Dr. A. R. Menon.—Our motions are a little different.

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